

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY LINTON,

Plaintiff

v.

NEW YORK LIFE INSURANCE AND ANNUITY
CORPORATION,

Defendant.

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C.A. No. 04-11362-RWZ

NOTICE OF APPEAL

Notice is hereby given that the plaintiff Barry Linton, hereby appeals to the United States Court of Appeals for the First Circuit from the order of this Court dated September 18, 2006 granting summary judgment on all remaining counts in favor of the defendant, New York Life Insurance and Annuity Corporation ("NYLIAC") and this Court's decision dated October 25, 2006, denying plaintiff's Motion to Alter and Amend Judgment pursuant to Fed. R. Civ. P 59 (e).

BARRY LINTON,

By his attorneys,

/s/ P. Andy Henderson, Jr.

Richard J. Grahm (BBO #206620)

P. Andy Henderson, Jr. (BBO#655891)

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November 22, 2006

CERTIFICATE OF SERVICE

I, P. Andy Henderson, Jr. an attorney with the law firm of Looney & Grossman LLP, hereby certify that on November 21, 2006, I served a copy of the foregoing **Notice of Appeal**, on the following via first class mail:

Levina Wong, Esq.
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Boston, MA 02110-2624

/s/ P. Andy Henderson, Jr.
P. Andy Henderson Jr., Esq.